

AMENDED IN SENATE APRIL 17, 1997

AMENDED IN SENATE APRIL 8, 1997

SENATE BILL

No. 156

Introduced by Senator Johannessen
(Coauthors: Senators Haynes and Kopp)
(Coauthors: Assembly Members House, Oller, and Richter)

January 15, 1997

An act to amend Section 7267.2 of the Government Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 156, as amended, Johannessen. Real property: acquisition.

Existing law requires a public entity, prior to adopting a resolution of necessity and initiating negotiations for the acquisition of real property, to establish an amount that it believes to be just compensation and to make an offer to the owner or owners of record to acquire the property for the full amount. Existing law generally requires that when a public entity acquires property under its powers of eminent domain, the property be acquired for fair market value.

This bill would provide that the value of the real property interests in the acquisition of those interests by ~~public entities, or in the public benefit, shall be the fair market value, never exceeding the value of the transfer of the same property in an arms length transaction, in a for-profit transaction~~ *any state agency or department shall be equal to the fair market value.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7267.2 of the Government Code
2 is amended to read:
3 7267.2. (a) Prior to adopting a resolution of necessity
4 pursuant to Section 1245.230 and initiating negotiations
5 for the acquisition of real property, the public entity shall
6 establish an amount that it believes to be just
7 compensation therefor, and shall make an offer to the
8 owner or owners of record to acquire the property for the
9 full amount so established, unless the owner cannot be
10 located with reasonable diligence. The offer may be
11 conditioned upon the legislative body's ratification of the
12 offer by execution of a contract of acquisition or adoption
13 of a resolution of necessity or both. In no event shall the
14 amount be less than the public entity's approved
15 appraisal of the fair market value of the property. ~~The~~
16 ~~value of the real property interests in the acquisition of~~
17 ~~those interests by public entities, or in the public benefit,~~
18 ~~shall be the fair market value, never exceeding the value~~
19 ~~of the transfer of the same property in an arms-length~~
20 ~~transaction, in a for-profit transaction. The value of the~~
21 *real property interests in the acquisition of those interests*
22 *by any state agency or department shall be equal to the*
23 *fair market value.* Any decrease or increase in the fair
24 market value of real property to be acquired prior to the
25 date of valuation caused by the public improvement for
26 which the property is acquired, or by the likelihood that
27 the property would be acquired for the improvement,
28 other than that due to physical deterioration within the
29 reasonable control of the owner or occupant, shall be
30 disregarded in determining the compensation for the
31 property. The public entity shall provide the owner of
32 real property to be acquired with a written statement of,
33 and summary of the basis for, the amount it established
34 as just compensation. Where the property involved is
35 owner occupied residential property and contains no

1 more than four residential units, the homeowner shall,
2 upon request, be allowed to review a copy of the appraisal
3 upon which the offer is based. Where appropriate, the just
4 compensation for the real property acquired and for
5 damages to remaining real property shall be separately
6 stated.

7 (b) Notwithstanding subdivision (a), a public entity
8 may make an offer to the owner or owners of record to
9 acquire real property for less than an amount which it
10 believes to be just compensation therefor if (1) the real
11 property is offered for sale by the owner at a specified
12 price less than the amount the public entity believes to be
13 just compensation therefor, (2) the public entity offers a
14 price which is equal to the specified price for which the
15 property is being offered by the landowner, and (3) no
16 federal funds are involved in the acquisition,
17 construction, or project development.

18 (c) As used in subdivision (b), “offered for sale” means
19 any of the following:

20 (1) Directly offered by the landowner to the public
21 entity for a specified price in advance of negotiations by
22 the public entity.

23 (2) Offered for sale to the general public at an
24 advertised or published, specified price set no more than
25 six months prior to and still available at the time the
26 public entity initiates contact with the landowner
27 regarding the public entity’s possible acquisition of the
28 property.

